



FEDERAL ELECTION COMMISSION
Washington, DC 20463

VIA FIRST CLASS MAIL & FACSIMILE
(202) 572-8683

OCT - 4 2012

Charles Spies, Esq.
Clark Hill PLCC
601 Pennsylvania Avenue, NW
North Building, Suite 1000
Washington, DC 20004

RE: MUR 6618 (formerly P-MUR 527)
United Power, Inc.

Dear Mr. Spies:

On September 26, 2012, the Federal Election Commission accepted the signed conciliation agreement and civil penalty you submitted on behalf of your client, United Power, Inc., in settlement of violations of 2 U.S.C. §§ 441b and 441f, provisions of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

Documents related to the case will be placed on the public record within 30 days. See *Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files*, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and *Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record*, 74 Fed. Reg. 66,132 (Dec. 14, 2009). Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B).

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please send me, within 30 days of the conciliation agreement's effective date, a signed copy of the letter you send to Action Committee for Rural Electrification requesting disgorgement in accordance with Paragraphs IV.3 and 4 of the agreement.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Dawn M. Odrowski
Attorney

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 6618
United Power, Inc.)

CONCILIATION AGREEMENT

This matter was initiated by a *sua sponte* submission filed with the Federal Election Commission ("Commission") and pursuant to information ascertained by the Commission in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that United Power, Inc. ("Respondent") violated 2 U.S.C. §§ 441b and 441f.

NOW, THEREFORE, the Commission and the Respondent, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondent and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

II. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Respondent is an incorporated non-profit rural electric cooperative association with its headquarters in Brighton, Colorado.

2. Respondent is governed by an eleven-member board of directors elected by Respondent's approximately 67,000 members. Board members receive no salary, but are reimbursed for attending meetings and for expenses. Respondent budgets a yearly per-diem and

1 expense account for each director from which it pays the directors a per diem for attending
2 Board, committee, and other authorized meetings, and reimburses them for expenses incurred in
3 conducting business related to the Respondent. The per diem and expense account was subject
4 to an annual cap that ranged from \$20,000 to \$25,000 from 2001 through 2010.

5 3. Action Committee for Rural Electrification ("ACRE") is the separate segregated
6 fund of the National Electric Cooperative Association, a trade association with 900 non-profit
7 rural electric cooperative members, including Respondent. It is a "political committee" within
8 the meaning of 2 U.S.C. § 431(4) and is registered with the Commission.

9 4. Colorado Advocates for Rural Electrification ("CARE") is the state political
10 committee of the Colorado Rural Electric Association ("CREA"), a state-wide service
11 organization that represents twenty Colorado electric cooperatives, including Respondent.

12 5. CARE solicits annual joint "memberships" to CARE and ACRE from certain
13 categories of individuals associated with its cooperative members at various contribution levels.
14 The highest contribution level, \$500, is designated as the "President's Club" and those who
15 contribute at the level automatically became "members" of both ACRE and CARE.

16 6. From 2001 through 2010, Respondent reimbursed members of its board of
17 directors \$400 for each annual \$500 contribution a director made jointly to CARE and ACRE.
18 In all, Respondent reimbursed its directors a total of \$37,462 from corporate funds. Of that
19 amount, \$19,105 represents reimbursements for contributions made to ACRE.

20 7. One of Respondent's employees collected \$500 contributions checks from the
21 directors for delivery to ACRE and CARE at board meetings each fall. During the meetings,
22 directors would typically fill out "Director's Per Diem and Expense Claim Forms" that included
23 the \$400 CARE/ACRE contribution as an expense. The directors themselves approved the

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claims by circulating and initialing the forms during board meetings. Respondent then paid each director for the contribution as a reimbursed expense.

8. Disclosure reports filed by ACRE show that ACRE received \$255 of each \$500 contribution.

9. Respondent's actions with regard to the reimbursement process were transparent. Respondent's directors described the CARE/ACRE contributions on their expense claim forms as "PAC \$400," "CARE/ACRE \$400," "CARE \$400," "ACRE \$400," or "President's Club \$400." The directors made and passed a motion to approve the reimbursement method in a board meeting, an action documented in the board meeting minutes. Respondent's board meetings and records such as claim forms are open to or accessible by its member-customers.

10. The Federal Election Campaign Act of 1971, as amended ("the Act") provides that no person shall make a contribution in the name of another person. 2 U.S.C. § 441f.

11. The Act prohibits corporations from making any contributions in connection with a federal election. 2 U.S.C. § 441b(a).

12. Respondent has taken a number of remedial actions. It sought and received from most of the current and former living directors who received reimbursements repayments of all of the reimbursed contributions, which it deposited into a segregated bank account; it revised its policies on "Charitable and Political Contributions," "Directors' Per Diem Expenses," and "Employee Business Expense Reimbursement" to expressly state that directors, officers, and employees may not be reimbursed, directly or indirectly, for making political contributions; and it conducted intensive education of its Board members and senior staff concerning federal campaign finance law.

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V. Respondent violated 2 U.S.C. §§ 441b and 441f by making contributions in the names of others using corporate treasury funds.

VI. Respondents will take the following actions:

1. Respondent will pay a civil penalty to the Federal Election Commission in the amount of Two Thousand Four Hundred Dollars (\$2,400), pursuant to 2 U.S.C. § 437g(a)(5)(A).

2. Respondent will cease and desist from violating 2 U.S.C. §§ 441b and 441f.

3. Respondent waives any right to a refund of the portion of contributions made by its directors to ACRE that it reimbursed.

4. Respondent will request that ACRE disgorge to the U.S. Treasury \$7,956.

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than thirty (30) days from the date this agreement becomes effective to comply with and implement the requirements contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral,


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1 made by either party or by agents of either party, that is not contained in this written agreement
2 shall be enforceable.

3 FOR THE COMMISSION:

4 Anthony Herman
5 General Counsel

6 BY:

7 
8 Daniel Petalas
9 Associate General Counsel
for Enforcement

10/5/12
Date

10 FOR THE RESPONDENT:

11 
12 (Name)
13 (Position)
14

Charles R. Spies
Council to United Power

9/3/12
Date

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